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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

EXAMINER

DUONG, THOMAS

ART UNIT	PAPER NUMBER
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2145

MAIL DATE	DELIVERY MODE
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07/28/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/526,270	Applicant(s) LANGER ET AL.	
	Examiner THOMAS DUONG	Art Unit 2145	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-28, 31-35, and 38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18-28, 31-35, and 38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This office action is in response to the Applicants' Amendment filed on March 19, 2008. Applicants amended *claims 18 and 31-32*, canceled *claims 29-30 and 36-37*, and added *claim 38*. *Claims 18-28, 31-35, and 38* are presented for further consideration and examination.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
3. *Claims 18-28, 34, and 38* are rejected under 35 U.S.C. 103(a) as being unpatentable over Menditto et al. (US006981029B1) and in view of Greenley (US005761469).
4. With regard to *claims 18 and 38*, Menditto discloses,
 - *a first computer comprising a first storage unit in which program instructions can be stored, a first processor which executes the stored program instructions, and a signaling unit for implementing features of the data transfer service, wherein the first computer is configured to process one or more application programs*

subjecting the first processor to a variable processing load; and (Menditto, col.1, line 5 – col.17, line 45)

Menditto discloses, *“At this point, the objective of content gateway 18 is to locate the “best” server and network connection for delivering data to client terminal 16, i.e., the server that will deliver the content the fastest with the required security protection. Determining the best server depends on various factors including whether the internet service provider implements a content delivering nodes, whether the content requested is static or dynamic, whether the content is replicated in different data centers or at the content delivery nodes, and which of the eligible servers are most heavily loaded”* (Menditto, col.3, lines 51-61). Hence, Menditto teaches of the content server (i.e., Applicants' first computer), which inherently contains a hard drive (i.e., Applicants' storage unit), a processor (i.e., Applicants' first processor), and a network interface (i.e., Applicants' signaling unit) to provide connectivity to the network.

- *a second computer operatively connected to the first computer via a data transmission network, the second computer comprising a data processing unit that processes the data to be transferred or actually transferred within the scope of the data transfer service, and (Menditto, col.1, line 5 – col.17, line 45)*

Menditto discloses, *“There are two classes of policies relevant to content gateway 18, quality of service policies that are downloaded to content gateway router 28 and content policies distributed to content gateway processors 30. Content gateway policy manager 26 is used to distribute content policies to content gateway processors 30 and a separate policy server may be used to*

distribute quality of service policies to content gateway routers 28. Content gateway policy manager 26 performs a distribution role using a policy distribution point to provide the content policies to content gateways 18. Content gateway router 28 performs an enforcement role using a policy enforcement point to implement content policies provided by content policy manager 26” (Menditto, col.12, lines 20-32). Hence, Menditto teaches of the content gateway 18 (i.e., Applicants’ second computer) connected to content servers via network 12 (i.e., Applicants’ data transmission network). The content gateway 18 contains the content gateway router 28 (i.e., Applicants’ data processing unit) that performs an enforcement role on the content data (i.e., Applicants’ processes the data to be transferred or actually transferred) to implement content policies provided by content policy manager 26.

- *a second storage unit and a second processor for use of the data processing unit, wherein the second computer further comprises a transmitting/receiving unit which receives data over the data transmission network and/or transmits data into the data transmission network, wherein the data transmission network operates according to an internet protocol, wherein the data comprises voice data and/or video data, wherein a quality indication of the voice data and/or video data is substantially determined by the second computer and is substantially independent of the variable processing load to which the first processor is subjected to when processing said one or more application programs.* (Menditto, col.1, line 5 – col.17, line 45)

Menditto discloses, *“There are two classes of policies relevant to content gateway 18, quality of service policies that are downloaded to content gateway*

router 28 and content policies distributed to content gateway processors 30. Content gateway policy manager 26 is used to distribute content policies to content gateway processors 30 and a separate policy server may be used to distribute quality of service policies to content gateway routers 28. Content gateway policy manager 26 performs a distribution role using a policy distribution point to provide the content policies to content gateways 18. Content gateway router 28 performs an enforcement role using a policy enforcement point to implement content policies provided by content policy manager 26" (Menditto, col.12, lines 20-32). Hence, Menditto teaches of the content gateway 18 (i.e., Applicants' second computer) containing content gateway processors (i.e., Applicants' second processor) to perform an enforcement role on the content data (i.e., Applicants' receives data over the data transmission network and/or transmits data into the data transmission network) via the content gateway router 28 (i.e., Applicants' transmitting/receiving unit) to implement content policies provided by content policy manager 26. Hence, Menditto teaches the content gateway routers 28 (i.e., Applicants' transmitting/receiving unit) implementing the quality of services (i.e., Applicants' quality indication) on the content data (i.e., Applicants' voice data and/or video data), which means the quality is determined by the content gateway (e.g., content gateway processors 30, content gateway routers 28) (i.e., Applicants' second computer) and not by the processors (i.e., Applicants' first processor) of the content servers (i.e., Applicants' first computer).

However, Menditto does not explicitly disclose,

- *a first computer comprising a first storage unit in which program instructions can be stored, a first processor which executes the stored program instructions, and*

a signaling unit for implementing features of the data transfer service, wherein the first computer is configured to process one or more application programs subjecting the first processor to a variable processing load; and

Greenley teaches,

- *a first computer comprising a first storage unit in which program instructions can be stored, a first processor which executes the stored program instructions, and a signaling unit for implementing features of the data transfer service, wherein the first computer is configured to process one or more application programs subjecting the first processor to a variable processing load; and (Greenley, col.1, line 5 – col.7, line 50)*

Greenley discloses, “A method for scheduling a processor's pipeline to optimize load instructions processing in a variable number of cycles, said method comprising the steps of: (a) dispatching a load instruction defining a memory location; (b) ascertaining if the dispatched load instruction is signed or unsigned; and (c) scheduling the execution of the load instruction in a variable number of cycles depending on whether the load instruction is signed or unsigned”. Hence, Greenley teaches of a method of scheduling a processor's pipeline to optimize load instructions processing (i.e., Applicants' subjecting the first processor) in a variable number of cycles (i.e., Applicants' variable processing load).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teachings of Greenley with the teachings of Menditto to provide “a system and technique that can locate an appropriate server to fulfill an information request by using only the contents of the request. In accordance with the present invention, a system and method for processing a request for

information in a network are provided that substantially eliminate or greatly reduce disadvantages and problems associated with conventional content routing techniques” (Menditto, col.1, lines 45-53). Menditto discloses, “The present invention provides various technical advantages over conventional content routing techniques which may or may not be required to practice the claimed invention. For example, one technical advantage is to determine a source of information based on the additional content of a request apart from the domain name associated therewith. Another technical advantage is to provide a subscription service to content providers so that associated requests may have accelerated processing. Yet another technical advantage is to locate an efficient server capable of satisfying the request and provide a connection thereto for retrieval of requested information. Still another technical advantage is to avoid penalizing traffic that does not have a subscription for accelerated processing” (Menditto, col.1, lines 54-67). Greenley discloses, “To avoid the problem of adding unnecessary cycles to the pipeline, some modern processors such as the DEC Alpha.TM. architecture processors do not support sign extension. However, these processors still do have the problem of having to compile 32-bit code programs written for 32-bit processors on the newer 64-bit processors. Therefore, another approach is necessary to optimize scheduling a processor's pipeline to accommodate signed LOADs without incurring excessive processor cycle time” (Greenley, col.3, lines 55-63).

5. With regard to claims 19-20, Menditto and Greenley disclose,

- *wherein the first computer further comprises a first operating system program, and the second computer further comprises a second operating system program.*

(Menditto, col.1, line 5 – col.17, line 45; Greenley, col.1, line 5 – col.7, line 50)

It is inherent that since the content server and the content gateway are two separate devices, they contain two separate operating systems.

- *wherein the second computer further comprises a circuit without the involvement of an operating system program.* (Menditto, col.1, line 5 – col.17, line 45; Greenley, col.1, line 5 – col.7, line 50)

6. With regard to claims 21-23, Menditto and Greenley disclose,

- *wherein the second computer is housed outside the first computer.* (Menditto, col.1, line 5 – col.17, line 45; Greenley, col.1, line 5 – col.7, line 50)

It is inherent that since the content server and the content gateway are two separate devices, they are housed separately.

- *wherein the second computer contains a power supply unit operating independently of a power pack of the first computer.* (Menditto, col.1, line 5 – col.17, line 45; Greenley, col.1, line 5 – col.7, line 50)

It is inherent that since the content server and the content gateway are two separate devices, they contain separate power supplies.

- *wherein the second computer the second computer is operatively connected to the power supply of a data transmission network.* (Menditto, col.1, line 5 – col.17, line 45; Greenley, col.1, line 5 – col.7, line 50)

7. With regard to claims 24-28 and 34, Menditto and Greenley disclose,

- *wherein the second computer provides the data transfer service when the first computer has been deactivated.* (Menditto, col.1, line 5 – col.17, line 45; Greenley, col.1, line 5 – col.7, line 50)

It is inherent that since the content server and the content gateway are two separate devices, the content gateway can function when the content server is offline.

- *wherein the second computer is contained in a portable device.* (Menditto, col.1, line 5 – col.17, line 45; Greenley, col.1, line 5 – col.7, line 50)
- *wherein the first computer is a network computer which receives an application program over the data transmission network.* (Menditto, col.1, line 5 – col.17, line 45; Greenley, col.1, line 5 – col.7, line 50)
- *wherein the first computer further comprises a transmitting/receiving unit which transmits and receives data packets over the data transmission network, wherein the data transmission network operates according to an internet protocol.*

(Menditto, col.1, line 5 – col.17, line 45; Greenley, col.1, line 5 – col.7, line 50)

Menditto discloses, “At this point, the objective of content gateway 18 is to locate the “best” server and network connection for delivering data to client terminal 16, i.e., the server that will deliver the content the fastest with the required security protection. Determining the best server depends on various factors including whether the internet service provider implements a content delivering nodes, whether the content requested is static or dynamic, whether the content is replicated in different data centers or at the content delivery nodes, and which of the eligible servers are most heavily loaded” (Menditto, col.3, lines 51-61).

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- *wherein the first computer further comprises a setting unit which transmits a setting value to the transmitting/receiving unit of the first computer. (Menditto, col.1, line 5 – col.17, line 45; Greenley, col.1, line 5 – col.7, line 50)*
- *wherein the signaling unit and/or the setting unit contains an interface to a data viewing program serving to access data over a data transmission network. (Menditto, col.1, line 5 – col.17, line 45; Greenley, col.1, line 5 – col.7, line 50)*

8. Claims 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Menditto et al. (US006981029B1), in view of Greenley (US005761469), and further in view of Maes (US006934756B2).

9. With regard to claim 31-32, Menditto and Greenley disclose,

See *claim 18* rejection as detailed above.

However, Menditto and Greenley do not explicitly disclose,

- *wherein the internet protocol is transmitted according to a H.323 based protocol.*
- *wherein the signaling messages are transmitted to the transmitting/receiving unit of the second computer according to a control protocol for transferring data in data packets, the control protocol selected from the group consisting of H.225, H.245, SIP.*

Maes teaches,

- *wherein the internet protocol is transmitted according to a H.323 based protocol.*
(Maes, col.1, line 7 – col.74, line 63)

Maes discloses, “Next, with respect to a mechanism for selecting the coding schemes, the present invention preferably utilizes the H.245 control standard by

extending H.245 to include any supported conversational protocols. It is to be understood, however, that other protocols similar to H.323 (e.g., SIP) may be utilized (as described below)” (Maes, col.10, lines 18-23). Hence, Maes teaches of transmitting using protocols such as H.323, H.245, SIP, etc.

- *wherein the signaling messages are transmitted to the transmitting/receiving unit of the second computer according to a control protocol for transferring data in data packets, the control protocol selected from the group consisting of H.225, H.245, SIP. (Maes, col.1, line 7 – col.74, line 63)*

Maes discloses, “Next, with respect to a mechanism for selecting the coding schemes, the present invention preferably utilizes the H.245 control standard by extending H.245 to include any supported conversational protocols. It is to be understood, however, that other protocols similar to H.323 (e.g., SIP) may be utilized (as described below)” (Maes, col.10, lines 18-23). Hence, Maes teaches of transmitting using protocols such as H.323, H.245, SIP, etc.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teachings of Maes with the teachings of Menditto and Greenley to provide “a system and technique that can locate an appropriate server to fulfill an information request by using only the contents of the request. In accordance with the present invention, a system and method for processing a request for information in a network are provided that substantially eliminate or greatly reduce disadvantages and problems associated with conventional content routing techniques” (Menditto, col.1, lines 45-53). Maes discloses, “The present invention is directed to conversational protocols for implementing distributed conversational networking architectures and/or distributed

conversational applications, as well as real-time conversational computing between network-connected pervasive computing devices and/or servers over a computer network. The implementation of distributed conversational systems/applications according to the present invention is based, in part, on a suitably defined conversational coding, transport and control protocols. The control protocols include session control protocols, protocols for exchanging of speech meta-information, and speech engine remote control protocols” (Maes, col.6, lines 10-23).

10. Claim 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Menditto et al. (US006981029B1), in view of Greenley (US005761469), and further in view of Feyaerts (US006771636B1).

11. With regard to claim 33, Menditto and Greenley disclose,

See *claim 18* rejection as detailed above.

However, Menditto and Greenley do not explicitly disclose,

- *wherein the signaling unit provides an interface that have been specified for users on a private branch exchange or for an UP0 interface or a CorNet interface.*

Feyaerts teaches,

- *wherein the signaling unit provides an interface that have been specified for users on a private branch exchange or for an UP0 interface or a CorNet interface. (Feyaerts, col.1, line 7 – col.74, line 63)*

Feyaerts discloses, “As an example of the use of the invention, FIG. 2 shows a telephone connection between the two private branch exchanges 10 and 16.

Data are sent from a private branch exchange 10, via a connection 20, to an emulator 22. As mentioned, the data are composed of wanted data and control data” (Feyaerts, col.6, lines 7-12). Hence, Feyaerts teaches of a CorNet interface for users on a private branch exchange via a private branch exchange connection and emulator.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teachings of Feyaerts with the teachings of Menditto and Greenley to allow for the access to a system that will allow information to be exchanged in a manner that will allow for the offering of specific service attributes, such as information about a network.

12. Claim 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Menditto et al. (US006981029B1), in view of Greenley (US005761469), and further in view of Kohzuki et al. (US006912225B1).

13. With regard to claim 35, Menditto and Greenley disclose,

See *claim 18* rejection as detailed above.

However, Menditto and Greenley do not explicitly disclose,

- *wherein the device arrangement is adapted to register an overload case on the data transmission network between the first computer and the second computer and wherein upon registry of the overload case, forwarding a data packet is given a priority.*

Kohzuki teaches,

- *wherein the device arrangement is adapted to register an overload case on the data transmission network between the first computer and the second computer and wherein upon registry of the overload case, forwarding a data packet is given a priority.* (Kohzuki, col.1, line 7 – col.13, line 44)

Kohzuki discloses, “According to the embodiment of the shaping unit described above, the shaping is effected on the priority packets within the minimum guaranteed bandwidth. Therefore, if the input bandwidth is greater than the minimum guaranteed bandwidth, there is a possibility that some of the queues become an overflow status and overflowed packets might be discarded. In order to prevent this status, the function of transmitting packets at the maximum without keeping the minimum guaranteed bandwidth when the queue is likely to overflow may be added” (Kohzuki, col.11, lines 45-48). Hence, Kohzuki teaches that in the event of an overflow the transmission of the packet is given priority and not the guarantee of minimum bandwidth.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teachings of Kohzuki with the teachings of Menditto and Greenley in order to maintain a steady flow of data in the event of an overflow.

Response to Arguments

14. Applicants’ arguments with respect to *claims 18 and 38* have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Duong whose telephone number is 571/272-3911. The examiner can normally be reached on M-F 7:30AM - 4:00PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason D. Cardone can be reached on 571/272-3933. The fax phone numbers for the organization where this application or proceeding is assigned are 571/273-8300 for regular communications and 571/273-8300 for After Final communications.

/Thomas Duong/

Patent Examiner, Art Unit 2145

Art Unit: 2145

July 28, 2008

/Jason D Cardone/
Supervisory Patent Examiner, Art Unit 2145